

§ 1415.19

(5) Presents proof of a dedicated fund for enforcement as described in § 1415.17(b)(5), if the entity is a non-governmental organization; and

(6) Presents documentation that the landowner has concurred in the transfer.

(e) The Chief, his or her successors and assigns, shall retain a “right of enforcement” in any transferred GRP funded easement, which provides the Secretary the right to inspect the easement for violations and enforce the terms of this easement through any and all authorities available under Federal or State law, in the event that the eligible entity fails to enforce the terms of the easement, as determined by NRCS.

(f) Should an easement be transferred pursuant to this section, all warranties and indemnifications provided for in the deed shall continue to apply to the United States. Upon transfer of the easement, the easement holder shall be responsible for enforcement of the grazing management plan, as approved by NRCS, and implementation of any associated conservation or restoration plans and costs of such restoration, as agreed to by the landowner and entity.

(g) Due to the Federal interest in the GRP easement, transferred GRP funded easements cannot be condemned.

§ 1415.19 Appeals.

(a) Applicants or participants may obtain a review of any administrative determination concerning eligibility for participation utilizing the administrative appeal regulations provided in parts 614 and 780 of this title.

(b) Before a person may seek judicial review of any administrative action concerning eligibility for program participation under this part, the person must exhaust all administrative appeal procedures set forth in paragraph (a) of this section, and for the purposes of judicial review, no decision shall be a final agency action except a decision of the Chief, NRCS or the FSA Administrator, as applicable, under these procedures.

(c) Any appraisals, market analysis, or supporting documentation that may be used by NRCS in determining property value are considered confidential information, and shall only be dis-

7 CFR Ch. XIV (1–1–10 Edition)

closed as determined at the sole discretion of NRCS in accordance with applicable law.

(d) Enforcement actions undertaken by NRCS in furtherance of its Federally-held property rights are under the jurisdiction of the Federal District Court and are not subject to review under administrative appeal regulations.

§ 1415.20 Scheme or device.

(a) If it is determined by USDA that a participant has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such participant during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by USDA.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of payments for cost-share practices, rental contracts, or easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

(c) A participant who succeeds to the responsibilities under this part shall report in writing to USDA any interest of any kind in enrolled land that is held by a predecessor or any lender. A failure of full disclosure will be considered a scheme or device under this section.

PART 1416—2006 EMERGENCY AGRICULTURAL DISASTER ASSISTANCE PROGRAMS

Subpart A—General Provisions for 2006 Emergency Agricultural Disaster Assistance Programs

Sec.

1416.1 Applicability.

1416.2 Eligible counties, hurricanes, and disaster periods.

1416.3 Administration.

1416.4 Definitions.

1416.5 Application for payment.

1416.6 Limitations on payments and other benefits.

1416.7 Insurance requirements.

1416.8 Appeals.

1416.9 Offsets, assignments, and debt settlement.

1416.10 Records and inspections thereof.

1416.11 Refunds; joint and several liability.